

FLOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

LAS VEGAS POLICE PROTECTIVE)
 ASSOCIATION METRO, INC., as Collective)
 Bargaining Agent for the Commissioned)
 Police Personnel of the LAS VEGAS) Case No. A1-045310
 METROPOLITAN POLICE DEPARTMENT,)
)
 Complainant,)
)
 vs.)
)
 LAS VEGAS METROPOLITAN POLICE)
 DEPARTMENT,)
)
 Respondent.)
)

D E C I S I O N

The complainant asserts several violations of NRS Chapter 288 by the respondent Department based upon the latter's alleged action of removing the Captains and Lieutenants in the Department from the bargaining unit represented by the complainant Association.

In its answer, the Department contends that the Captains and Lieutenants were never part of the bargaining unit represented by the Association and that their inclusion in that bargaining unit would have been improper in light of the provisions of NRS 288.170.

As the result of Legislative action, the Clark County Sheriff's Department and the City of Las Vegas Police Department were merged on July 1, 1973. The two police officers associations were also merged.

On January 11, 1974, counsel for the newly merged Las Vegas Metropolitan Police Department directed a letter to counsel for the new association, the Las Vegas Police Protective Association Metro, Inc., setting forth the bargaining unit that

had been established by the Department pursuant to NRS 288.170.

Included in the letter was the following statement:

For your further information, personnel excluded from this negotiating unit, in accordance with the prohibitions of N.R.S. 288.170, as supervisory personnel or as confidential or administrative employees include all classifications above the Sergeant classification; that is Lieutenant and above,

This bargaining unit determination was not challenged by the Association.

During the intervening years from 1974 through 1976, the Association and the Department negotiated a series of Memoranda of Agreement, none of which covered the scope of items generally contained in a collective bargaining agreement. Rather, the agreements merely reflected any new benefits acquired through the collective bargaining process. None of the memoranda contained any reference to the job classifications that were members of the bargaining unit and thus covered by the agreement.

The records reflects that the benefits negotiated by the Association were received by the Captains and Lieutenants as well as officers of the rank of Sergeant and below.

On March 21, 1977, a memorandum was directed from Captain Eric Cooper to Association President Will Deiss stating in part:

Attached is a copy of a petition signed by all Captains and Lieutenants on the Las Vegas Metropolitan Police Department, with two abstentions. This petition requests the LVMPD administration to include Captains and Lieutenants in the management pay group. This letter is to notify the Police Protective Association that the Captains and Lieutenants no longer wish to be represented by the Las Vegas PPA for collective bargaining. Henceforth, the Captains and Lieutenants will be considered as management for pay purposes. This matter was brought before the Police Commission on Friday, March 18, 1977, and was approved by them. This request for removal from the employee bargaining unit in no way constitutes resignation from the Police Protective Association. To the contrary, all those who signed the petition insist that they wish to remain members of the association. ...

This complaint followed.

The record before us fails to disclose any documentation, after the letter of January 11, 1974, which would indicate that the bargaining unit initially recognized was expanded to include Captains and Lieutenants.

We are not persuaded by the argument of the Association that the Department granted the Captains and Lieutenants the same raises and newly acquired benefits that were negotiated and that by this action the Department increased the bargaining unit to include these individuals. It is common practice for salary and benefit increases negotiated by a non-supervisory bargaining unit to be applied to supervisors who do not collectively bargain. This is often necessitated by a single salary schedule covering all personnel within the entity where unequal raises would skew the schedule and destroy its integrity. Likewise, granting all employees the same benefits whether they are in the bargaining unit or not often times facilitates the handling of newly acquired benefits and eases the administrative difficulties that can result from a variety of employees receiving a variety of different benefits.

We also find significant the fact that no Captain or Lieutenant has served on the Association's bargaining team since the merger of 1973. With a large number of persons holding these ranks, it would seem that their participation, if they were in the unit, would be important to place a balance of varied interests on the team as well as staving off unrest within the organization resulting from a portion of the membership being unrepresented in the negotiations.

The Association has presented the entity's computer print-out of dues-paying Association members; that list does reflect that most of the Captains and Lieutenants are members of the

Association. However, the printout also discloses that the Sheriff of the Las Vegas Metropolitan Police Department, Ralph Lamb, and his immediate subordinate, Undersheriff John Moran, are also members of the Association. There is no claim that these two persons are members of the bargaining unit or that they would be appropriate members of the unit in light of NRS 288.170. It thus appears that the Association has a variety of members and carries out a variety of functions in addition to acting as a collective bargaining agent for certain Department personnel. We are thus not persuaded that the presence of the names of Captains and Lieutenants on the computer printout of dues paying Association members is in any way probative of the allegation that these individuals are members of the bargaining unit.

We note in reviewing this peculiar membership situation that no provision of NRS Chapter 288 appears to foreclose the Sheriff, Undersheriff, Captains and Lieutenants from membership in the Association despite the fact that they are not in the bargaining unit represented by the Association. The only limitation on such associations is contained in NRS 288.140(3) which states, "[a] police officer, sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers." It would thus seem that the Sheriff, Undersheriff, Captains and Lieutenants may belong to the Association for its social, fraternal and other benefits.

There is, however, a clear differentiation between Association membership and status as a member of the bargaining unit represented by the Association in collective bargaining. Our statutory scheme does not foreclose these individuals from Association membership, but, such membership does not vest them with the status of members of the duly recognized bargaining unit.

It is obvious from the series of events which lead to this complaint that over the years since merger the parties have not adequately documented their activities, thus, leading the Association, the Captains and the Lieutenants to believe that the Association's bargaining unit included these ranks. We cannot overemphasize the importance of adequate documentation of events and activities and improved communications among all concerned. Such communication and documentation could have obviated the necessity for this complaint and could resolve similar difficulties in the future before they reach us.

The evidence has failed to disclose that the Captains and Lieutenants employed by the Las Vegas Metropolitan Police Department were ever included in the bargaining unit represented by the Las Vegas Police Protective Association Metro, Inc. There was thus no violation of any provision of NRS Chapter 288 by the Department when it treated these officers as members of management for pay purposes. The complaint is dismissed.

Nothing contained in this decision should be inferred to foreclose the Captains and Lieutenants from seeking recognition as a separate bargaining unit within the Association. Such action could be taken pursuant to NRS 288.160(1) and (2) in conjunction with a bargaining unit determination under NRS 288.170(1). Any dispute over such recognition or bargaining unit determination could then be appealed to this Board pursuant to NRS 288.160(4) and NRS 288.170(2). These areas were not raised by the present complaint and their resolution should not be inferred from our decision.

FINDINGS OF FACT

1. That the Las Vegas Police Protective Association Metro, Inc. is a local government employee organization.

2. That the Las Vegas Metropolitan Police Department is a local government employer.

3. That the Las Vegas Metropolitan Police Department has recognized the Las Vegas Police Protective Association Metro, Inc. as the collective bargaining agent for certain employees of the Las Vegas Metropolitan Police Department.

4. That on July 1, 1973, as the result of Legislative action, the Clark County Sheriff's Department and the City of Las Vegas Police Department were merged to form the respondent Las Vegas Metropolitan Police Department.

5. That the two recognized local government employee organizations in existence prior to the merger were merged into a single organization, the complainant, known as the Las Vegas Police Protective Association Metro, Inc.

6. That on January 11, 1974, counsel for the Las Vegas Metropolitan Police Department wrote to the counsel for the Las Vegas Police Protective Association Metro, Inc. stating the Department's determination of an appropriate bargaining unit for the Las Vegas Police Protective Association Metro, Inc. to represent in collective bargaining.

7. That the letter of January 11, 1974, expressly excluded from the bargaining unit to be represented by the Las Vegas Police Protective Association Metro, Inc., "all classifications above the Sergeant classification; that is Lieutenant and above,"

8. That the Las Vegas Metropolitan Police Department's determination of a bargaining unit for the Las Vegas Police Protective Association Metro, Inc. was never challenged or appealed to this Board.

9. That the record fails to disclose any action on the part of the Las Vegas Metropolitan Police Department subsequent to January 11, 1974, which expanded the bargaining unit represented

by the Las Vegas Police Protective Association Metro, Inc. to include persons of the rank of Lieutenant and/or Captain.

10. That since the merger of the Clark County Sheriff's Department and the City of Las Vegas Police Department in 1973, the Captains and Lieutenants employed by the Las Vegas Metropolitan Police Department have never been part of the bargaining unit represented by the Las Vegas Police Protective Association Metro, Inc.

CONCLUSIONS OF LAW

1. That pursuant to the provisions of Nevada Revised Statutes Chapter 288, the Local Government Employee-Management Relations Board possesses original jurisdiction over the parties and subject matter of this complaint.

2. That the complainant, Las Vegas Police Protective Association Metro, Inc., is a local government employee organization within the term as defined in NRS 288.040.

3. That the Las Vegas Metropolitan Police Department is a local government employer within the term as defined in NRS 288.060.

4. That by its letter of January 11, 1974, the Las Vegas Metropolitan Police Department set forth the bargaining unit which was to be represented by the Las Vegas Police Protective Association Metro, Inc. in accordance with NRS 288.170(1).

5. That the letter of January 11, 1974, from counsel for the Las Vegas Metropolitan Police Department to counsel for the Las Vegas Police Protective Association Metro, Inc. expressly excluded from the bargaining unit represented by the Las Vegas Police Protective Association Metro, Inc. all classifications above the classification of Sergeant.

6. That no subsequent action of the Las Vegas Metropolitan Police Department has expanded the initial bargaining unit to include Captains and Lieutenants.

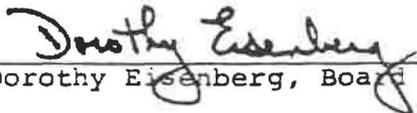
7. That the Captains and Lieutenants employed by the Las Vegas Metropolitan Police Department are not members of the bargaining unit represented by the Las Vegas Police Protective Association Metro, Inc.

8. That no provision of NRS Chapter 288 forecloses Captains and Lieutenants from belonging to the Las Vegas Police Protective Association Metro, Inc. for its social, fraternal and other benefits not related to collective bargaining.

9. That the Las Vegas Metropolitan Police Department did not violate any provision of NRS Chapter 288 by treating the Captains and Lieutenants as management for purposes of pay.

The requested relief is denied and the complaint dismissed.

Dated this 28th day of October, 1977.


Dorothy Eisenberg, Board Chairman


John T. Gojack, Board Vice Chairman